

Assembly Bill No. 7

CHAPTER 358

An act to add Sections 1241, 14960, 22345, and 23038 to the Financial Code, and to amend Section 394 of the Military and Veterans Code, relating to consumer loans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 2007. Filed with
Secretary of State October 9, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 7, Lieu. Armed services members: consumer loans.

The California Finance Lenders Law provides, among other things, for the licensure and regulation by the Commissioner of Corporations of persons engaged in the business of making consumer loans and governs the terms that may be included in those loans. The California Deferred Deposit Transaction Law provides for the licensure and regulation by the commissioner of persons engaged in the business of making or negotiating deferred deposit transactions, which are transactions in which the lender defers depositing a consumer's personal check until a specified date pursuant to a written agreement. A willful violation of either the California Finance Lenders Law or the California Deferred Deposit Transaction Law is a crime.

This bill would require any state-chartered bank or credit union that makes a refund anticipation loan to a covered borrower, as defined, to comply with specified provisions of federal law relating to terms of consumer credit extended to armed services members and dependents of armed services members. The bill would, on and after October 1, 2007, make it unlawful under the California Finance Lenders Law and the California Deferred Deposit Transaction Law to violate specified provisions of the John Warner National Defense Authorization Act for Fiscal Year 2007, relating to the Armed Forces. Because this bill would make a willful violation of those provisions a crime, it would impose a state-mandated local program.

Existing law provides that any person who violates specified provisions prohibiting discrimination against a member of the military or naval forces of this state or the United States, including discrimination with respect to the terms of a loan or financing based on that person's membership in the military or naval forces of this state or of the United States, is guilty of a misdemeanor.

This bill would exempt from the discrimination provisions, with respect to loans and transactions covered by the John Warner National Defense Authorization Act for Fiscal Year 2007, any person who does not market or extend consumer loans to specified covered borrowers, and any person

who does not market deferred deposit transactions to, or enter into such transactions with, specified covered borrowers.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 1241 is added to the Financial Code, to read:

1241. (a) Any state-chartered bank that makes a refund anticipation loan to a covered borrower, as defined in Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, shall comply with the provisions of Section 670 of Public Law 109-364 and Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register pertaining to refund anticipation loans.

(b) With respect to any refund anticipation loan covered by Section 670 of Public Law 109-364 and Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, a person that does not market or extend those loans to covered borrowers shall not be in violation of Section 394 of the Military and Veterans Code.

SEC. 2. Section 14960 is added to the Financial Code, to read:

14960. (a) Any credit union that makes a refund anticipation loan to a covered borrower, as defined in Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, shall comply with the provisions of Section 670 of Public Law 109-364 and Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register pertaining to refund anticipation loans.

(b) With respect to any refund anticipation loan covered by Section 670 of Public Law 109-364 and Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, a person that does not market or extend those loans to covered borrowers shall not be in violation of Section 394 of the Military and Veterans Code.

SEC. 3. Section 22345 is added to the Financial Code, to read:

22345. (a) Any person who violates any provision of Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) or any provision of Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, violates this chapter.

(b) With respect to any consumer loans covered by Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) or by Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, a person that does not market consumer loans to, or does not extend those loans to, covered borrowers, as that term is defined under Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, shall not be in violation of Section 394 of the Military and Veterans Code.

(c) This section shall become operative on October 1, 2007.

SEC. 4. Section 23038 is added to the Financial Code, to read:

23038. (a) Any person who violates any provision of Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) or any provision of Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, violates this division.

(b) With respect to any deferred deposit transactions covered by Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) or by Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, a person that does not market deferred deposit transactions to, or does not enter into those transactions with, covered borrowers, as that term is defined under Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, shall not be in violation of Section 394 of the Military and Veterans Code.

(c) This section shall become operative on October 1, 2007.

SEC. 5. Section 394 of the Military and Veterans Code is amended to read:

394. (a) No person shall discriminate against any officer, warrant officer or enlisted member of the military or naval forces of the state or of the United States because of that membership. No member of the military forces shall be prejudiced or injured by any person, employer, or officer or agent of any corporation, company, or firm with respect to that member's employment, position or status or be denied or disqualified for employment by virtue of membership or service in the military forces of this state or of the United States.

(b) No officer or employee of the state, or of any county, city and county, municipal corporation, or district shall discriminate against any officer, warrant officer or enlisted member of the military or naval forces of the state or of the United States because of that membership. No member of the military forces shall be prejudiced or injured by any officer or employee of the state, or of any county, city and county, municipal corporation, or district with respect to that member's employment, appointment, position or status or be denied or disqualified for or discharged from that employment or position by virtue of membership or service in the military forces of this state or of the United States.

(c) No person shall prohibit or refuse entrance to any officer or enlisted member of the Army or Navy of the United States or of the military or naval forces of this state into any public entertainment or place of amusement or into any of the places described in Sections 51 and 52 of the Civil Code because that member wears the uniform of the organization to which he or she belongs.

(d) No employer or officer or agent of any corporation, company, or firm, or other person, shall discharge any person from employment because of the performance of any ordered military duty or training or by reason of being an officer, warrant officer, or enlisted member of the military or naval forces of this state, or hinder or prevent that person from performing any military service or from attending any military encampment or place of drill or instruction he or she may be called upon to perform or attend by proper authority; prejudice or harm him or her in any manner in his or her employment, position, or status by reason of performance of military service or duty or attendance at military encampments or places of drill or instruction; or dissuade, prevent, or stop any person from enlistment or accepting a warrant or commission in the California National Guard or Naval Militia by threat or injury to him or her in respect to his or her employment, position, status, trade, or business because of enlistment or acceptance of a warrant or commission.

(e) (1) No private employer or officer or agent of any corporation, company, or firm, or other person, shall restrict or terminate any collateral benefit for employees by reason of an employee's temporary incapacitation incident to duty in the National Guard or Naval Militia. As used in this subdivision, "temporary incapacitation" means any period of incapacitation of 52 weeks or less.

(2) As used in this subdivision, "benefit" includes, but is not limited to, health care which may be continued at the employee's expense, life insurance, disability insurance, and seniority status.

(f) No person who provides lending or financing shall discriminate against any person with respect to the terms of a loan or financing, including, but not limited to, the finance charge, based on that person's membership in the military or naval forces of this state or of the United States. With respect to any loan or credit transaction covered by Section 670 of Public Law 109-364 and Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, a person that does not market or extend those transactions to covered borrowers shall not be in violation of this section. For purposes of this section, a covered borrower has the same meaning as provided for in Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register.

(g) Any person violating this section is guilty of a misdemeanor. In addition, any person violating any of the provisions of this section shall be liable for actual damages and reasonable attorney's fees incurred by the injured party.

(h) The remedies provided for in this section are not intended to be exclusive but are in addition to the remedies provided for in other laws, including Sections 51 and 52 of the Civil Code.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect armed service members and their families at the earliest possible time, it is necessary that this act take effect immediately.